

32B-14-401 Reasonable compensation -- Arbitration.

- (1)
- (a) If a supplier violates Section 32B-14-201 or 32B-14-304, the supplier is liable to the wholesaler for the sum of:
 - (i) the laid-in cost of inventory of the affected brands; and
 - (ii) any diminution in the fair market value of the wholesaler's business with relation to an affected brand.
 - (b) In determining fair market value, consideration shall be given to all elements of value, including good will and going concern value.
- (2)
- (a) A distributorship agreement may require that any or all disputes between a supplier and a wholesaler be submitted to binding arbitration.
 - (b) In the absence of an applicable arbitration provision in a distributorship agreement, either the supplier or the wholesaler may request arbitration if a supplier and a wholesaler are unable to mutually agree on:
 - (i) whether good cause exists for termination or nonrenewal;
 - (ii) whether the supplier unreasonably withheld approval of a sale or transfer under Section 32B-14-304; or
 - (iii) the reasonable compensation to be paid for the value of the wholesaler's business in accordance with Subsection (1).
 - (c) If a supplier or wholesaler requests arbitration under Subsection (2)(b) and the other party agrees to submit the matter to arbitration, an arbitration panel shall be created with the following members:
 - (i) one member selected by the supplier in a writing delivered to the wholesaler within 10 business days of the date arbitration was requested under Subsection (2)(b);
 - (ii) one member selected by the wholesaler in a writing delivered to the supplier within 10 business days of the date arbitration was requested under Subsection (2)(b); and
 - (iii) one member selected by the two arbitrators appointed under Subsections (2)(c)(i) and (ii).
 - (d) If the arbitrators fail to choose a third arbitrator under Subsection (2)(c)(iii) within 10 business days of the day on which the arbitrators under Subsections (2)(c)(i) and (ii) are selected, a judge of a district court in the county in which the wholesaler's principal place of business is located shall select the third arbitrator.
 - (e) Arbitration costs shall be divided equally between the wholesaler and the supplier.
 - (f) The award of the arbitration panel is binding on the parties unless appealed within 20 days from the date of the award.
 - (g) Subject to the requirements of this chapter, arbitration and a proceeding on appeal are governed by Title 78B, Chapter 11, Utah Uniform Arbitration Act.

Enacted by Chapter 276, 2010 General Session